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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/083,759	02/26/2002	Makoto Fukumoto	MM4522	2261

7590 09/26/2005

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1251 Avenue of the Americas  
New York, NY 10020-1182

EXAMINER
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PSITOS, ARISTOTELIS M

ART UNIT	PAPER NUMBER
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2653

DATE MAILED: 09/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

10/083,759

Applicant(s)

FUKUMOTO ET AL.

Examiner

Aristotelis M. Psitos

Art Unit

2653

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 16 September 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: see next page. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 1015.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

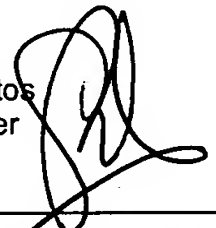
**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

Aristotelis M Psitos  
Primary Examiner  
Art Unit: 2653



Section 3a: continued from prev. page: Applicants' amendments, i.e., the introduction of the phrase ""memory unit" also fails to comply with 37 CFR 1.75 (d) (1) and hence WILL NOT BE ENTERED.

In addition, applicants' amendment to the claims alters the scope of the invention as previously examined and search in that from a "control unit" applicants have introduced a "test recording unit". The examiner cannot readily find/map this phrase to the terminology found in the specification as originally filed, and hence also introduces problems/conflicts with 37 CFR 1.75 (d) (1) as well. The examiner is not certain as to what element, or elements applicants intend to be encompassed. Furthermore, the operational description of such an element differs from that previously claimed and hence inherently requires more than a cursory review of the specification, art developed and search. Such are NOT performed at the present time juncture under present USPTO practice. If applicants are desirous of such a scope of protection, then the examiner strongly recommends the filing of a RCE.

With respect to the arguments presented, they are drawn to the non entered claimed terminology, and hence not persuasive. With respect to applicants' position with respect to the paragraphs in question of the MAT of JP 200-285485, the examiner is NOT persuaded because the FAX document to applicants' representative is a translation of the entire document, and in reading this document, again noting paragraphs 23 (starting at page 13 of the document) till paragraph 26 (page 15 of the document), the limitations as recited in the Finally rejected claims are present.

Applicants' attention is also drawn to paragraph 3 (as found on page 5 of the faxed document) with respect to the x2, x4, x6, and/or x8 mode of operation.